



March 26, 2008

Debbie Pfiel  
URS  
201 West DuPont Highway  
Millsboro, DE 19966

RE: PLUS review 2008-02-08; City of Harrington Comprehensive Plan Amendment

Dear Ms. Pfiel:

Thank you for meeting with State agency planners on February 27, 2008 to discuss the proposed City of Harrington Comprehensive Plan Amendment.

According to the information received, you are seeking to amend the Annexation Area – Future Land Use to allow land use changes to 10 parcels totaling 180.4 acres and expand the annexation boundary area by adding 8 parcels totaling 228.18 acres based on property owner requests.

Please note that additional plan changes, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting.

The following are a complete list of comments received by State agencies:

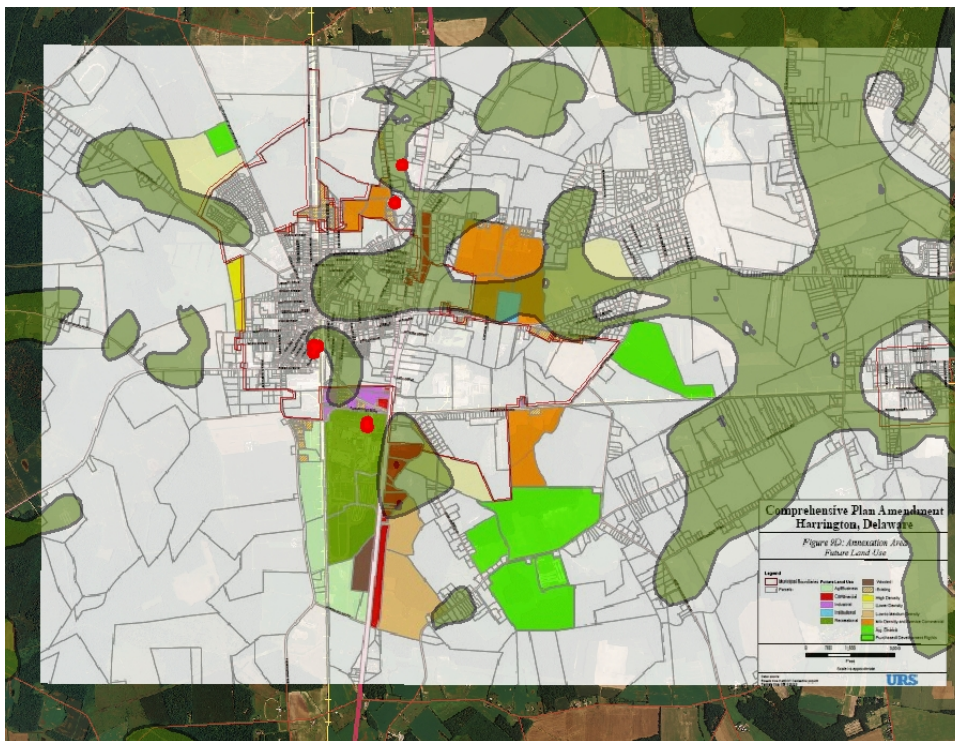
**Certification Issues – The issues listed below must be addressed before the plan can be certified by the Governor:**

**Water Resource Protection Areas (Contact Kevin Coyle 739-9071)**

The Water Supply Section, Ground Water Protection Branch (GPB), has found wellhead protection areas and excellent ground-water recharge potential areas within the municipal boundary. The document under review does not contain language pertaining to source water protection.

The land use map as submitted shows inappropriate land uses within source water protection areas (e.g. Industrial land use in an excellent recharge area, Mixed Density and Service Commercial in a wellhead protection area). Without a source water protection ordinance to guide land use planning, the City is not protective of their source water resources. Therefore, until a source water protection ordinance is deemed by DNREC to protect the resource and adopted by the City, DNREC cannot recommend certification of the Comprehensive Plan amendments.

**Map of the Town of Harrington, DE. (PLUS 2008-02-08)** The Map submitted in the Comprehensive Plan Amendment is overlain with the DNREC delineated source water protection areas. Wellhead protection areas are in red. Excellent ground-water recharge potential areas are shown in olive green.



**Recommendations:** The following are comments and recommendations made by State agency representatives. The State would like to see these recommendations addressed in the plan.

**Office of State Planning Coordination – Contact: David Edgell 739-3090**

Our office understands that this proposed plan amendment represents the alteration of the Town of Harrington's annexation plan. We understand that this new annexation map reflects parcels that have been requested for annexation, and more up to date land uses for those annexation areas. Our office has no objections to these amendments to the annexation plan. The new annexation areas suggested are all in Levels 2 and 3, and do not represent a large departure from the annexation plan concept found in the certified Harrington Comprehensive Plan.

You will note from the comment above that sourcewater protection is a certification item. This amendment will not be processed and approved as an amendment to the City's comprehensive plan until the issues listed above have been addressed to the satisfaction of DNREC. It is strongly recommended that the City contact the DNREC representative listed above at their early convenience to discuss this certification item.

**Department of Transportation – Contact: Bill Brockenbrough 760-2109**

- 1) Of the parcels to be added, two are significant from a DelDOT perspective, Tax Parcels 6-00-170.00-02-08.00 and 6-00-171.00-05-22.00. Based on their size, the development of these parcels will likely require traffic impact studies. DelDOT will address them in more detail when plans for specific uses are available.
- 2) Similarly, of the parcels for which changes of use are proposed, as many as four could be significant from their perspective, Tax Parcels 6-00-171.00-04-44.00 and 51.00, and 6-00-180.00-02-51.00, and possibly 6-00-180.00-02-21.00. Based on their size, the development of these parcels will also likely require traffic impact studies. DelDOT will address them in more detail when plans for specific uses are available.
- 3) Further on the subject of traffic impact studies, DelDOT recommends that the Town look for opportunities, in their discussions with developers to combine their studies, where possible and appropriate, to obtain a better idea of expected traffic impacts and needed improvements. Based on their locations, Tax Parcel 6-00-171.00-05-22.00 on the Milford-Harrington Highway (Delaware Route 14) and Tax Parcels 6-00-171.00-04-44.00 and 51.00 on Jackson Ditch Road (Kent Road 430) seem like good candidates for a combined study. It might be reasonable to include Tax Parcel 6-00-180.00-02-51.00 on Messicks Road (Kent Road 432) as well.

- 4) Finally, regarding Tax Parcel 6-00-171.00-05-22.00, DelDOT is not opposed to the annexation that is contemplated, but in amending the Plan they would urge the City to look beyond the pending application. If it is appropriate to annex this parcel, it seems to us that annexation of the strip development separating the bulk of this parcel from the Milford Harrington Highway would also be appropriate. Consideration should be given to including those lots in this Plan amendment to avoid the need for another amendment later.

**The Department of Natural Resources and Environmental Control – Contact: Kevin Coyle 739-9071**

### **Water Supply**

Individual wells in the parcels numbered 4, 5, 6, 7, 8, 9 and 10 along the northbound side of DuPont Highway may need to be reclassified to Public Miscellaneous due to changes in use from Residential to Commercial. If central public water is required, the existing wells will be disconnected from any potable water systems. The regulations allow them to be reclassified as agricultural wells.

Please provide an update on the status of the Town's Water Allocation.

### **Drainage**

Several parcels listed in the proposed annexation additions, and the proposed changes/corrections, are located within tax ditch organizations that have established tax ditch rights-of-way. The placement of permanent obstructions within tax ditch rights-of-way is prohibited. Any change to the location of the tax ditch, or the existing tax ditch rights-of-way, will require a change to the tax ditch court order. Parcels with tax ditch rights-of-way are identified in the proposed additions table as 1, 3, and 5. Parcels with tax ditch rights-of-way are identified in the proposed additions/corrections table as 1, 2, 3, and 10.

The Drainage Program recommends each parcel have a tax ditch right-of-way review conducted on the parcel prior to annexation by the City. Please contact the Georgetown office at (302) 855-1930 to request a review tax ditch rights-of-way on a parcel.

When a project involves a tax ditch, or tax ditch right-of-way, include the Drainage Program in the pre-application meeting with the Kent Conservation District to discuss drainage, stormwater management, tax ditch maintenance, and the release of stormwater into the tax ditch.

## **Floodplains**

The city needs to be aware of the Brown's Branch floodplain bisecting the proposed Mixed Density and Service Commercial area northeast of current city limits. This is an unstudied Zone A floodplain that will be impacted by development in this area as well as the new subdivisions northeast of town.

## **Rare Species**

DNREC has not surveyed all of the parcels that are being proposed for addition or for changes. Therefore, it is unknown if State-rare, or federally listed plants, animals or natural communities will be impacted by development of these parcels. Some of the parcels have been surveyed and both rare plant and animal species have been documented. These species could be impacted if development of the parcels do not include preservation of forested and wetlands areas.

## **Forest Preservation**

A number of these parcels are either partially forested or entirely forested. Some of these forested areas contain wetlands. Forested areas and forested wetlands in particular, can support an array of plant and animal species. Forested riparian areas are critical to many species of wildlife, providing travel corridors, foraging and nesting areas. Forests also provide environmental services that benefit humans directly such as water quality protection (erosion control and sediment, nutrient, biological and toxics removal), climate moderation, aesthetic value and recreational opportunities. Development that is permitted to occur without regards to these environmental resources is considered to be the largest factor causing the decrease of some wildlife species in Delaware.

Cumulative forest loss and wetland degradation throughout the State is of utmost concern to the Division of Fish and Wildlife which is responsible for conserving and managing the State's wildlife (see [www.fw.delaware.gov](http://www.fw.delaware.gov) and the Delaware Code, Title 7). Current State, County and local ordinances and regulations do not adequately protect these resources. Therefore, we have to rely on landowners and/or the entity that approves projects (i.e. counties and municipalities) to consider implementing measures that will aide in forest loss reduction and wetland protection.

### *Recommendations:*

1. DNREC highly recommends that the City require developers, or applicants of development projects, to contact the Natural Heritage and Endangered Species Program to determine if their project activities will impact a State-rare or

federally listed species. In some cases a site visit may be requested in order to provide the necessary information. The City should then consider requiring implementation of recommendations provided by the NHESP before approving site plans.

Contact information:

Environmental Review Coordinator  
Natural Heritage and Endangered Species Program  
DNREC-Division of Fish and Wildlife  
4876 Hay Point Landing Rd  
Smyrna, DE 19977

2. Forest blocks or forested wetlands on some of these parcels should be considered for preservation. Incentive-based programs for wildlife management are available to private landowners through our agency. Shelly Tovell is the contact person (302-735-3600).
3. Development at sites containing wetlands and water courses should be required to maintain, at an absolute *minimum*, a 100-foot buffer comprised of the existing vegetation (or planted with native species of trees, shrubs, grasses, or wild flowers). Lot lines and infrastructure should not be permitted to impact this buffer zone. Current State, County and local required buffer widths do not appear to recognize scientific research which indicates that 100-foot vegetative buffers (not comprised of mowed grass) are necessary to adequately protect water quality. In addition, forested riparian areas are critical to many species of wildlife, providing travel corridors, foraging and nesting areas.

**State Fire Marshal's Office – Contact: Duane Fox 739-4394**

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal's Office. At this time, this Agency has no objection to, and makes no comments regarding, the Comprehensive Plan or an amendment to a Comprehensive Plan.

The Delaware State Fire Marshal's Office has the responsibility to review all commercial and residential subdivisions for compliance with the Delaware State Fire Prevention Regulations. This Agency asks that a MOU be established between the Delaware State Fire Marshal's Office and the County of Kent. The State Fire Marshal's Office would be issuing approvals much like DelDOT, Kent Conservation, and DNREC. This Agency's approvals are based on the Delaware State Fire Prevention Regulations only.

At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans in accordance with the Delaware State Fire Prevention Regulation.

Preliminary meetings with Fire Protection Specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: [www.statefiremarshal.delaware.gov](http://www.statefiremarshal.delaware.gov), technical services link, plan review, applications or brochures.

**Department of Agriculture - Contact: Scott Blaier 698-4500**

The Department of Agriculture has no objections to the City's requests for amending its Comprehensive Plan at this time.

However, as noted in the PLUS application, the City's comprehensive plan is due to be updated in 2009. The Department would like to take this opportunity to make the city aware that there are a number of parcels around the city enrolled in the State Agricultural Lands Preservation program. DDA asks that during your comprehensive plan update, you consider how these parcels will be affected by future growth and annexation plans. The Department would be glad to assist the city in any way possible during your comprehensive plan update.

**Public Service Commission - Contact: Andrea Maucher 739-4247**

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

**Delaware State Housing Authority – Contact Vicki Powers 739-4263**

The City of Harrington is proposing an Amendment to their Comprehensive Plan to amend their annexation area and future land use to allow land use changes to 10 parcels totaling 180.4 acres and to add 8 parcels totaling 228.18 acres to the annexation area.

DSHA has comments for 3 of the 10 parcels that are being reviewed for this proposal; the parcels are 6-00-17100-04-440; 6-00-17100-04-5100; and 6-00-18000-02-5100. The proposal for these parcels is to change their current land use of Lower Density and Ag Bus/Wooded to future land use of Mix Density/Service Commercial. We support these proposals for the change of land use. As a general rule, DSHA would like to see any residential development in areas where residents will have easy access to services, markets, and employment opportunities such as Communities and Developing Areas outlined in the State Strategies Map.

**Department of Education – Contact: John Marinucci 735-4055**

1. The DOE supports the State Strategies for Policies and Spending, to the extent possible and practicable within the limits of the Federal and State mandates under which the Department operates.
2. In its review of Comprehensive Plans and Comprehensive Plan Amendments, the DOE considers:
  - Adequate civil infrastructure availability within the region to accommodate current and future educational facilities.
  - Transportation system connections and availability to support multimodal access within the community, to include but not limited to walk paths, bike paths, and safe pedestrian grade crossings.
  - Transportation road system adequacy to accommodate bus and delivery vehicle traffic to current, planned or potential educational facilities.
  - Recreation facilities and opportunities within the community and their respective proximity to current and planned or potential education facilities. The DOE also recognizes the potential that the educational facilities are to be considered recreational facilities by and within the community.
3. The DOE *typically* considers industrial/commercial development incompatible with educational facilities, however, residential development and educational facilities *are typically* considered to be compatible. As a result, the DOE is interested in the proximity of current and planned or potential education facilities to commercial/industrial development zones.
4. The DOE recognizes the integral role of educational facilities within communities. As such, the DOE seeks to assure that residential growth, that generates additional demand on educational facilities, is managed with adequate educational infrastructure being made a part of sub-division plans as appropriate.
5. The DOE offers its support to assist and participate by coordinating with this municipality, the local school districts the County, the Office of State Planning Coordination as well as other school districts and stakeholders as future development and annexations may be considered.
6. DOE has no comments regarding the Comprehensive Plan amendment under consideration.

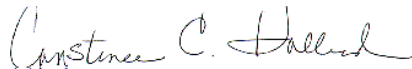


***Approval Procedures:***

1. Once all edits, changes and corrections have been made to the plan, please submit the completed document (text and maps) to our office for review. **Your PLUS response letter should accompany this submission.** Also include documentation about the public review process. In addition, please include documentation that the plan has been sent to other jurisdictions for review and comment, and include any comments received and your response to them.
2. Our office will require a maximum of 20 working days to complete this review.
  - a. If our review determines that the revisions have adequately addressed all certification items, we will forward you a letter to this effect.
  - b. If there are outstanding items we will document them in a letter, and ask the town to resubmit the plan once the items are addressed. Once all items are addressed, we will send you the letter as described above.
3. Once you receive our letter stating that all certification items have been addressed, your Planning Commission and Council should adopt the plan pending State certification. We strongly recommend that your Council adopt the plan by ordinance.
4. Send our office a copy of the adopted plan along with the ordinance (or other documentation) that formally adopts your plan.
5. The State will issue a letter accepting this amendment to the certified comprehensive plan.
6. Once you receive this letter, please forward two (2) bound paper copies and one electronic copy of your plan to our office for our records.

Thank you for the opportunity to review this plan. If you have any questions, please contact me at 302-739-3090.

Sincerely,



Constance C. Holland, AICP  
Director

CC: City of Harrington  
Kent County